

EXHIBIT K

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

BERNHARDT TIEDE, II; §
TEXAS PRISONS COMMUNITY §
ADVOCATES; BUILD UP, INC., A/K/A §
JUSTICE IMPACTED WOMEN'S §
ALLIANCE; TEXAS CITIZENS UNITED §
FOR REHABILITATION OF ERRANTS; and §
COALITION FOR TEXANS WITH §
DISABILITIES, §
Plaintiffs, §

Civil Action No.:
1:23-cv-01004-RP

v. §

BRYAN COLLIER, in his official capacity as §
Executive Director of Texas Department of §
Criminal Justice, §
Defendant. §

DECLARATION OF BRANDON DUKE

I, Brandon Duke, declare as follows:

1. My name is Brandon Duke. I am over 18 years old, and I am competent to make this declaration. I am Of Counsel with Winston & Strawn LLP, one of the firms representing Plaintiffs in the above-captioned lawsuit. I have personal knowledge of the facts stated in this declaration. The statements in this declaration are true and correct to the best of my knowledge.

2. Attached as Exhibit 1 is a true and correct copy of the paper *Provision of Air Conditioning and Heat-Related Mortality in Texas Prisons* by Julianne Skarha et al., published by JAMA Network on November 2, 2022 and accessible at <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2798097>.

3. Attached as Exhibit 2 is a true and correct copy of the news article *As the death toll in stifling Texas prisons climbs, congressional Democrats ask for investigation* by Jodie

McCullough, published by the Texas Tribune on August 21, 2023 and accessible at <https://www.texastribune.org/2023/08/21/texas-prison-heat-deaths/>.

4. Attached as Exhibit 3 is a true and correct copy of the government website titled *TDCJ Air Conditioning Construction Projects* as maintained by the Texas Department of Criminal Justice at <https://www.tdcj.texas.gov/ac/index.html> and last accessed on April 23, 2024.

5. Attached as Exhibit 4 are true and correct excerpts from the September 10, 2019 hearing transcript in the case *Cole v. Collier*, No. 4:14-cv-1698 in the United States District Court for the Southern District of Texas, Houston Division.

6. Attached as Exhibit 5 are true and correct excerpts from the March 30, 2016 deposition of Bryan Collier in the case *McCollum v. Livingston et al.*, No. 4:14-cv-3253 in the United States District Court for the Southern District of Texas, Houston Division.

7. Attached as Exhibit 6 is a true and correct copy of the *Interim Report 2018* by the House Committee on Corrections of the Texas House of Representatives as published on November 16, 2018 and accessible at https://www.house.texas.gov/_media/pdf/committees/reports/85interim/Corrections-Committee-Interim-Report-2018.pdf.

8. Attached as Exhibit 7 is a true and correct copy of the *Statistical Report Fiscal Year 2023* as published by the Texas Department of Criminal Justice and accessible at https://www.tdcj.texas.gov/documents/Statistical_Report_FY2023.pdf.

9. Attached as Exhibit 8 is a true and correct copy of the government website titled *Heat Index* as maintained by the National Weather Service at <https://www.weather.gov/phi/heat> and last accessed on April 23, 2024.

10. Attached as Exhibit 9 is a true and correct copy of the news article *Heatwaves kill more Americans than hurricanes, tornadoes and floods*, published by The Economist on September 1, 2022 and accessible at <https://www.economist.com/united-states/2022/09/01/heatwaves-kill-more-americans-than-hurricanes-tornadoes-and-floods>.

11. Attached as Exhibit 10 is a true and correct copy of the government website titled *Exceptional Heat of Summer 2023* as maintained by the National Weather Service at <https://www.weather.gov/lub/events-2023-2023summer-heat> and last accessed on April 23, 2024.

12. Attached as Exhibit 11 is a true and correct copy of the news article *Texas Prisons Are Cooking People Alive. Are We Okay With That? Part 1 in a series about heat in prison*, published by the Austin Chronicle on August 11, 2023 and accessible at <https://www.austinchronicle.com/news/2023-08-11/texas-prisons-are-cooking-people-alive-are-we-okay-with-that>.

13. Attached as Exhibit 12 is a true and correct copy of the *Correctional Managed Health Care Policy Manual, Heat Stress, D-27.2, Effective Date 05/28/2019*, as published by the Texas Department of Criminal Justice and accessible at https://tdcj.texas.gov/divisions/cmhc/docs/cmhc_policy_manual/D-27.02.pdf.

14. Attached as Exhibit 13 is a true and correct copy of the news article *Texas Says No Inmates Have Died Due to Stifling Heat in its Prisons Since 2012. Some Data May Suggest Otherwise*, as published by CBS News on July 19, 2023, at 7:10 AM and accessible at <https://www.cbsnews.com/news/texas-prisons-heat-deaths-disputed-claims-inmate-families-worry/>.

15. Attached as Exhibit 14 is a true and correct copy of the government website titled *Unit Directory* as maintained by the Texas Department of Criminal Justice at https://www.tdcj.texas.gov/unit_directory/ and last accessed on April 23, 2024.

16. Attached as Exhibit 15 is a true and correct copy of the website titled *Texas Profile* as maintained by the Prison Policy Initiative at <https://www.prisonpolicy.org/profiles/TX.html> and last accessed on April 23, 2024.

17. Attached as Exhibit 16 is a true and correct copy of the government report titled *Prisoners in 2022 – Statistical Tables* as published by the United States Department of Justice, Bureau of Justice Statistics in November 2023 and accessible at <https://bjs.ojp.gov/document/p22st.pdf>.

18. Attached as Exhibit 17 is a true and correct copy of the government publication titled *Excessive Heat Events Guidebook* as published by the United States Environmental Protection Agency Office of Atmospheric Programs as last updated in March 2006 and accessible at https://www.epa.gov/sites/default/files/2016-03/documents/ehguide_final.pdf

19. Attached as Exhibit 18 is a true and correct copy of the government website titled *What is the heat index?* as maintained by the National Weather Service at <https://www.weather.gov/ama/heatindex> and last accessed on April 23, 2024.

20. Attached as Exhibit 19 is a true and correct copy of the news article *Temperature Inside Baking Texas Prisons With No AC Regularly Hits 110 Degrees, Study Finds* by Josh Marcus, published by The Independent on July 26, 2022 at 8:10 PM and accessible at <https://www.independent.co.uk/independentpremium/us/texas-prison-heat-climate-change-air-conditioning-b2132464.html>.

21. Attached as Exhibit 20 is a true and correct copy of the news article *Temperatures Inside Texas Prison Units Regularly Reach 110 Degrees, new report says* by Claire Colbert, published by CNN.com July 23, 2022 and accessible at <https://www.cnn.com/2022/07/23/us/texas-prison-temperatures-report/index.html>.

22. Attached as Exhibit 21 is a true and correct copy of the paper *Extreme Temperatures and Covid19 in Texas Prisons* by J. Carlee Purdum, Ph.D. et al., published by the Texas A&M University Hazard Reduction & Recovery Center in July 2022 and accessible at <https://tamucoa.b-cdn.net/app/uploads/2022/07/22-01R.pdf>

23. Attached as Exhibit 22 is a true and correct copy of the Temperature Log from the Texas Department of Criminal Justice's Hutchins Unit, identified as Exhibit 11 in the March 4, 2014 deposition of Roy Storie in the case *McCollum v. Livingston et al.*, No. 3:12-cv-02037 in the United States District Court for the Northern District of Texas, Dallas Division.

24. Attached as Exhibit 23 are true and correct excerpts from the March 4, 2014 deposition of Roy Storie in the case *McCollum v. Livingston et al.*, No. 3:12-cv-02037 in the United States District Court for the Northern District of Texas, Dallas Division.

25. Attached as Exhibit 24 is a true and correct copy of the article *The State Claims No One Is Dying From 120+° F in Prisons, Part 2: The State's Response to the Prison Heat Crisis*, published by the Austin Chronicle on August 18, 2023 and accessible at <https://www.austinchronicle.com/news/2023-08-18/the-state-claims-no-one-is-dying-from-120-plus-df-heat-in-prisons/>.

26. Attached as Exhibit 25 is a true and correct copy of the article *'I Thought I Was Going to Die There.' What's it's Like to Live with Rising Temperatures in Prison* by Hannah Grabenstein, published by PBS NewsHour on August 19, 2022 at 4:26 PM and accessible at

<https://www.pbs.org/newshour/nation/i-thought-i-was-going-to-die-there-what-its-like-to-live-with-rising-temperatures-in-prison>.

27. Attached as Exhibit 26 is a true and correct copy of the Texas Department of Criminal Justice's Health Services Liaison Facility Types List, as last updated on September 12, 2017.

28. Attached as Exhibit 27 are true and correct excerpts of the June 23, 2017 testimony of Phyllis McWhorter in the case *Cole v. Collier*, No. 4:14-cv-1698 in the United States District Court for the Southern District of Texas, Houston Division.

29. Attached as Exhibit 28 is a true and correct copy of the *Guidelines for Completing the Health Summary for Classification Form Policy A-08.4, Attachment A*, as published by the Texas Department of Criminal Justice effective November 5, 2019, last reviewed in July 2023, and accessible at https://www.tdcj.texas.gov/divisions/cmhc/docs/cmhc_policy_manual/A-08.04_Attachment_A.pdf.

30. Exhibit 29 is a true and correct copy of the video recording of the Texas Prison Heat Bill Hearing, Committee on Corrections at 27:00 (statement of Terry Canales, H. Rep. and Sponsor of H.B.1708), accessible at https://tlchouse.granicus.com/MediaPlayer.php?view_id=78&clip_id=24240.

31. Attached as Exhibit 30 is a true and correct copy of the news article "*Cooking Them to Death*": *The Lethal Toll of Hot Prisons* by Maurice Chammah, published by The Marshall Project on October 11, 2017 at 7:00 AM and accessible at <https://www.themarshallproject.org/2017/10/11/cooking-them-to-death-the-lethal-toll-of-hot-prisons>.

32. Attached as Exhibit 31 is true and correct copy of the government report *Incarceration Rate Report – Highest and Lowest August 1, 2022*, published by the Texas Commission on Jail Standards and accessible at <https://www.tcjs.state.tx.us/wp-content/uploads/2022/08/IncarcerationRateRptCurrent.pdf>.

33. Attached as Exhibit 32 are true and correct excerpts from the June 1, 2016 testimony of Susanna Vassallo in the case *Bailey v. Livingston*, No. 4:14-cv-01698 in the United States District Court for the Southern District of Texas, Houston Division.

Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: April 23, 2024.

/s/ Brandon Duke
Brandon Duke